

Utah Supreme Court's Advisory Committee on the Rules of Juvenile Procedure

Meeting Agenda

David W. Fureigh, Chair

Location: Webex Meeting
Date: November 4, 2022
Time: 12:00 pm – 2:00 pm

Action: Welcome and approval of October 7, 2022, meeting minutes	Tab 1	David Fureigh
Discussion: Rules of Evidence and Rules of Juvenile Procedure. <ul style="list-style-type: none">• <i>Judge Michael Leavitt, a member of the Rules of Evidence committee, will discuss with the group his proposal to eliminate any reference to juvenile courts in various Rules of Evidence. Judge Leavitt suggests that this committee determine how the Rules of Evidence apply in juvenile court.</i>	Tab 2	Judge Michael Leavitt
Discussion & Action: Rule 6. Admission to detention without court order. <ul style="list-style-type: none">• <i>Amend Rule 6 as proposed by Judge Steven Beck and as further amended by the group. Committee members agreed to share the proposed amendments with members of the law enforcement community and solicit their input.</i>	Tab 3	All
Discussion: URCP Rule 4 and URJP Rule 18. <ul style="list-style-type: none">• <i>Discuss amending URJP Rule 18 to include similar language related to a bilingual notice as included in Rule 4 of the Rules of Civil Procedure. The Forms Committee supports drafting and approving a new juvenile court specific bilingual notice if the URJP mandates such notice.</i>	Tab 4	All

Discussion & Action: Proposed 2023 Meeting Schedule <ul style="list-style-type: none"> <i>The committee will discuss meeting dates and approve the 2023 meeting schedule. See below.</i> 		All
Discussion: Old business or new business		All

<https://www.utcourts.gov/utc/juvenile-procedure/>

Meeting Schedule:

November 4, 2022

December 2, 2022

Proposed 2023 Meeting Schedule:

January 6, 2023

February 3, 2023

March 3, 2023 – Last Day of Legislative Session

April 7, 2023 – Last Day of Juvenile Court Spring Conference

May 5, 2023

June 2, 2023

July 7, 2023

August 4, 2023

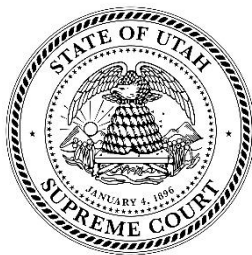
September 1, 2023 – Friday before Labor Day

October 6, 2023 – Friday before Columbus and Indigenous Peoples’ Day

November 3, 2023

December 1, 2023

TAB 1



Utah Supreme Court's Advisory Committee on the Rules of Juvenile Procedure

Draft Meeting Minutes

David W. Fureigh, Chair

Location: Webex Meeting

Date: October 7, 2022

Time: 12:00 p.m. – 2:00 p.m.

<p><u>Attendees:</u> David Fureigh, Chair Judge Paul Dame Judge Debra Jensen Mikelle Ostler Jordan Putnam Sophia Moore Matthew Johnson Arek Butler William Russell Michelle Jeffs</p>	<p><u>Excused Members:</u> Janette White Chris Yannelli Kristin Fadel Carol Verdoia, Emeritus Member</p>
<p><u>Staff:</u> Raymundo Gallardo Kiley Tilby, Recording Secretary Savannah Schoon, Juvenile Court Law Clerk</p>	

1. Welcome and approval of the September 2, 2022 Meeting Minutes: (David Fureigh)

David Fureigh welcomed everyone to the meeting and asked for approval of the September 2, 2022 Minutes. Judge Dame proposed grammatical changes to the minutes. With those amendments, Judge Dame moved to approve the September 2, 2022 Minutes. Sophia Moore seconded the motion, and it passed unanimously.

2. Discussion & Action - Rule 6. Admission to detention without court order: (All)

David Fureigh reminded the committee that at the last meeting, Chris Yanelli and other committee members were going to reach out to law enforcement agencies throughout the state to get their input with regard to the proposed changes to Rule 6. Mr. Yanelli was not able to be at the committee meeting, but indicated he is still waiting to hear back from a few law enforcement agencies. Mr. Fureigh proposed that instead of voting on the proposed changes and sending it out for comment today, that it be placed on the agenda for next month.

There was some additional discussion about other committee members reaching out to law enforcement agencies they work with. Michelle Jeffs indicated she was not at the committee meeting last month but would reach out to law enforcement and report back.

Judge Dame asked Judge Beck for his feedback on the proposed change to the language, specifically as it relates to the last sentence. Instead of indicating the reason the minor was not “released” from detention, the committee changed the language to indicate the reason the minor “was taken to a detention facility.” Judge Beck indicated he had read through the minutes from the last committee meeting and the rationale behind the change and does not have an issue with the language as proposed by the committee. Judge Beck further stated it makes sense to wait for input from law enforcement.

No objection was received from the committee to set this discussion over for next month to allow additional time for law enforcement feedback and will be added to the agenda.

3. Discussion & Action - URCP 4 and URJP Rule 18: (All)

Mr. Fureigh indicated this was placed on the agenda for committee consideration because a practitioner that does not typically practice in juvenile court mentioned to a juvenile attorney that the summons in a juvenile court matter failed to comply with Rule 4 of the Utah Rules of Civil Procedure. The practitioner had specifically stated it failed to comply with the bilingual notice outlined in section (c)1(G) of Rule 4. Mr. Fureigh indicated the juvenile rules have their own rule regarding a

summons for juvenile court cases and the summons did comply with Rule 18 of the Utah Rules of Juvenile Procedure. However, the committee may want to consider including similar language in Rule 18.

Jordan Putnam clarified whether Mr. Fureigh was referring to the bilingual notice on the Summons only, or whether Mr. Fureigh was also discussing making changes to juvenile rules to update the headers to include the warning language that is now required. Mr. Fureigh stated he was only referring to the bilingual notice that is not currently required by Rule 18 of the juvenile rules. Mr. Fureigh indicated there is a form that is given with the Summons that provides parties who do not speak English with directions on how to proceed.

The committee then discussed whether the same form that is being provided in district court matters could be used in juvenile court proceedings. Judge Dame expressed concern with the default language that is outlined in the current form as there is not a default on termination of parental rights. Mr. Fureigh indicated the committee would either need to come up with their own form or send it to the forms committee to make the necessary changes applicable to juvenile court. Judge Dame does not think the committee should be dealing with the form development.

Mr. Putman believes the form would be helpful as parents are often overwhelmed when they are served with documents. Mr. Putman likes the idea of parents being served with a form so they know what they are being served with and believes a bilingual notice would be beneficial. Mr. Putman also expressed that if the Utah Rules of Civil Procedure committee believed the form was necessary in district court matters, it should also be incorporated in juvenile court matters where the consequences are potentially more severe.

Arek Butler agreed that the bilingual notice is important and thinks it is a good idea to include that language in the rule but recommends using the current form as already prepared. Mr. Butler does not know that the entire form needs to be changed due to the default language. The default language in the form puts the parties on notice that default may happen.

Mr. Putman expressed concern in using the district court form as he is worried parents might believe that if the 21 days has passed, they have lost and will not be inclined to show up to court. Even if the parents do not show up, the cases do not just end after 21 days. Judge Dame agrees on that point and is also concerned parents may look at it on the 25th or 30th day and think there is no sense in doing anything due to missing the deadline.

William Russell is in favor of using second languages that are predominant in demographic areas and likes the spirit of the civil rule. Mr. Russell is supportive of the bilingual/multilingual outreach that Rule 4 embodies and believes it does

help those individuals understand what is going on when they are served. However, Mr. Russell sees significant differences in both substantive and procedural issues involved in Rule 4 as the timelines are similar but are not identical. Mr. Russell also indicates the most important distinction is that in child welfare matters, parents have a right to counsel. The district court form does not mention that right and would be an important substantive issue to put in there, as well as to advise individuals of timelines and omit the default provisions. Mr. Russell believes the form would need some pretty significant rework.

Mr. Fureigh stated the committee could contact the forms committee and see if they would be willing to consider doing a form for the juvenile court that comply with the juvenile rules. Mr. Fureigh does not think the committee can do their own form due to the translation to Spanish and other languages. If the forms committee is not willing to create a new form, that will resolve the issue. Judge Jensen agreed it is a good idea to get feedback from the forms committee before continued discussion on this issue. Raymundo Gallardo indicated he will reach out to the forms committee and raise the issues. Mikelle Ostler believes they will be supportive.

This topic will be moved to the agenda for next month for further discussion.

4. Old business/new business: (All)

Mr. Fureigh indicated he received an e-mail from Judge Leavitt from the 5th District. Judge Leavitt sits on the Rules of Evidence committee and requested to join one of our meetings to address some upcoming potential changes to the Rules of Evidence that may impact the juvenile rules. Judge Leavitt provided Mr. Fureigh with the proposed changes and an e-mail with an explanation. Mr. Gallardo will disperse those to the committee members for review and consideration.

Mr. Fureigh stated there are two or three places within the Rules of Evidence that directly refer to delinquency or juvenile court cases. The impression Mr. Fureigh got was there is concern that if an individual is reading the Rules of Evidence and sees that a particular rule does not mention juvenile court, then the rule does not apply to juvenile court matters. The Rules of Evidence committee is looking at removing any reference to the juvenile court so there is no confusion that all the Rules of Evidence apply. These changes may have some impact on the juvenile rules.

Mr. Fureigh also reports he is meeting with the Utah Supreme Court next week and will report on that at the next committee meeting.

The meeting adjourned at 12:45 PM. The next meeting will be held on November 4, 2022 at 12:00 PM via Webex.

TAB 2

Rule 412. Admissibility of Victim's Sexual Behavior or Predisposition.

Effective: 5/1/2017

(a) Prohibited Uses. The following evidence is not admissible in a criminal ~~or juvenile delinquency~~ proceedings involving alleged sexual misconduct:

(a)(1) evidence offered to prove that a victim engaged in other sexual behavior; or

(a)(2) evidence offered to prove a victim's sexual predisposition.

(b) Exceptions. The court may admit the following evidence if the evidence is otherwise admissible under these rules:

(b)(1) evidence of specific instances of a victim's sexual behavior, if offered to prove that someone other than the defendant was the source of semen, injury, or other physical evidence;

(b)(2) evidence of specific instances of a victim's sexual behavior with respect to the person accused of the sexual misconduct, if offered by the defendant to prove consent or if offered by the prosecutor; or

(b)(3) evidence whose exclusion would violate the defendant's constitutional rights.

(c) Procedure to Determine Admissibility.

(c)(1) Motion. If a party intends to offer evidence under [Rule 412\(b\)](#), the party must:

(c)(1)(A) file a motion that specifically describes the evidence and states the purpose for which it is to be offered;

(c)(1)(B) do so at least 14 days before trial unless the court, for good cause, sets a different time; and

(c)(1)(C) serve the motion on all parties.

(c)(2) Notice to the Victim. The prosecutor shall timely notify the victim or, when appropriate, the victim's guardian or representative.

(c)(3) Hearing. Before admitting evidence under this rule, the court must conduct an in camera hearing and give the victim and parties a right to attend and be heard. Unless the court orders otherwise, the motion, related materials, and the record of the hearing are classified as protected.

(d) Definition of "Victim." In this rule, "victim" includes an alleged victim.

Rule 615. Excluding Witnesses.

At a party's request, the court must order witnesses excluded so that they cannot hear other witnesses' testimony. Or the court may do so on its own. But this rule does not authorize excluding:

(a) a party who is a natural person;

(b) an officer or employee of a party that is not a natural person, after being designated as the party's representative by its attorney;

(c) a person whose presence a party shows to be essential to presenting the party's claim or defense;

(d) a victim in a criminal ~~or juvenile delinquency~~ proceeding where the prosecutor agrees with the victim's presence;

- (e)** a victim counselor while the victim is present unless the defendant establishes that the counselor is a material witness in that criminal or juvenile delinquency proceeding;
- or
- (f)** a person authorized by statute to be present.

Rule 101. Scope; Definitions.

(a) **Scope.** These rules apply to proceedings in Utah courts. The specific courts and proceedings to which the rules apply, along with exceptions, are set out in [Rule 1101](#).

(b) **Definitions.** In these rules:

(b)(1) “civil case” means a civil action or proceeding, including all juvenile court cases or proceedings that are not delinquency proceedings~~non-delinquency proceedings~~;

(b)(2) “criminal case” includes a criminal proceeding and a juvenile court delinquency case or proceeding;

(b)(3) “public office” includes a public agency;

(b)(4) “record” includes a memorandum, report, or data compilation;

(b)(5) a reference to any kind of written material or any other medium includes electronically stored information;

(b)(6) “defendant” includes a minor in a juvenile delinquency case or proceeding accused of committing an act that would be a crime if committed by an adult;

(b)(7) “conviction” includes an adjudication in a juvenile delinquency case or proceeding.

Rule 1101. Applicability of Rules.

Effective: 5/1/2022

(a) **Proceedings Generally.** These rules apply to all actions and proceedings in the courts of this state except as otherwise provided in subsections (c) and (d). They apply generally to civil actions and proceedings, criminal cases and contempt proceedings except those in which the court may act summarily, and all juvenile court proceedings unless stated otherwise in the Utah Rules of Juvenile Procedure.

(b) **Rule of Privilege.** The rule with respect to privileges applies at all stages of all actions, cases and proceedings.

(c) **Rules Inapplicable.** The rules (other than with respect to privileges) do not apply in the following situations:

(c)(1) **Preliminary Questions of Fact.** The determination of questions of fact preliminary to admissibility of evidence when the issue is to be determined by the court under URE 104.

(c)(2) **Grand Jury.** Proceedings before grand juries.

(c)(3) **Revoking Probation.** Proceedings for revoking probation, unless the court for good cause otherwise orders.

(c)(4) **Miscellaneous Proceedings.** Proceedings for extradition or rendition; sentencing; issuance of warrants for arrest, criminal summonses, and search warrants; and proceedings with respect to release on bail or otherwise.

(d) **Reliable Hearsay in Criminal Preliminary Examinations.** In a criminal preliminary examination, reliable hearsay shall be admissible as provided under URE 1102.

TAB 3

Petition to Amend Rule 6 of the Utah Rules of Juvenile Procedure

This petition is submitted pursuant to Rule 11-102(1) of the Utah Judicial Council Code of Judicial Administration

Proposed revisions:

Rule 6. Admission to detention without court order.

(a) Admission to detention without court order is governed by Utah Administrative Rules Title R547, Chapter 13, Guidelines for Admission to Secure Youth Detention Facilities.

(b) The form described in Utah Code section 80-6-203 must contain the following language above the signature line: "Pursuant to Utah Code section 78B-18a-104, I declare under criminal penalty of the State of Utah that the foregoing is true and correct to the best of my belief and knowledge, that alternatives to detention have been considered, and that the reason the minor was not released is free from bias."

Rationale:

It is likely unconstitutional for an individual, including a minor, to be detained without a sworn probable cause statement. (See attached memorandum). Nevertheless, current procedure in Utah juvenile courts does not require a sworn statement. By adding the language in paragraph (b), the probable cause statement becomes a sworn declaration pursuant to Utah Code section 78B-18a-104 (this is the same or similar language that is contained on delinquency petitions generated through CARE).

The addition of the language "...that alternatives to detention have been considered..." relates to the requirement in Utah Code section 80-6-203(3)(c)(iii) that the form state the reason the minor was not released by the peace officer since it encourages reflection about alternatives to detention.

The addition of the language "...and that the reason the minor was not released is free from bias" addresses both Utah Code section 80-6-203(3)(c)(iii) and the problem of disproportionality in the detention rates of youth of color in Utah. Data show that youth of color are detained at a higher rate than white youth. In 2019, youth of color constituted 50.9% of the population in detention in Utah despite only representing 25.8% of the school-aged youth population. *Striving for Equity in Utah's Juvenile Justice System*, p. 26. In other words, youth of color are detained at a rate of approximately twice their proportion of the population. Often, juvenile court professionals lament disproportionality but argue they can only address the cases brought to them. Without conceding that point, and while it certainly will not eliminate the problem of disproportionality in detention rates, the proposed language is a very small step in the right direction to ensure that reasons for detaining youth are free from bias.

This petition received the unanimous endorsement of the Utah Board of Juvenile Court Judges at its meeting on April 8, 2022.

Thank you for your consideration,

Steven Beck (jbeck@utcourts.gov)

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8 best of my belief and knowledge, that alternatives to detention have been considered, and
9 that the reason the minor was taken to a detention facility is free from bias."

TAB 4

1 Rule 4. Process.

2 (a) Signing of summons. The summons must be signed and issued by the plaintiff or the
3 plaintiff's attorney. Separate summonses may be signed and issued.

4 (b) Time of service. Unless the summons and complaint are accepted, a copy of the
5 summons and complaint in an action commenced under Rule [3\(a\)\(1\)](#) must be served no
6 later than 120 days after the complaint is filed, unless the court orders a different period
7 under Rule 6. If the summons and complaint are not timely served, the action against the
8 unserved defendant may be dismissed without prejudice on motion of any party or on
9 the court's own initiative.

10 (c) Contents of summons.

11 (1) The summons must:

12 (A) contain the name and address of the court, the names of the parties to
13 the action, and the county in which it is brought;

14 (B) be directed to the defendant;

15 (C) state the name, address and telephone number of the plaintiff's attorney,
16 if any, and otherwise the plaintiff's address and telephone number;

17 (D) state the time within which the defendant is required to answer the
18 complaint in writing;

19 (E) notify the defendant that in case of failure to answer in writing,
20 judgment by default will be entered against the defendant;

21 (F) state either that the complaint is on file with the court or that the
22 complaint will be filed with the court within 10 days after service; and

23 (G) include the bilingual notice set forth in the form summons approved by
24 the Utah Judicial Council.

25 (2) If the action is commenced under Rule [3\(a\)\(2\)](#), the summons must also:

26 (A) state that the defendant need not answer if the complaint is not filed
27 within 10 days after service; and

28 (B) state the telephone number of the clerk of the court where the defendant
29 may call at least 14 days after service to determine if the complaint has been
30 filed.

31 (3) If service is by publication, the summons must also briefly state the subject
32 matter and the sum of money or other relief demanded, and that the complaint is
33 on file with the court.

34 (d) Methods of service. The summons and complaint may be served in any state or
35 judicial district of the United States. Unless service is accepted, service of the summons
36 and complaint must be by one of the following methods:

37 (1) Personal service. The summons and complaint may be served by any person 18
38 years of age or older at the time of service and not a party to the action or a party's
39 attorney. If the person to be served refuses to accept a copy of the summons and
40 complaint, service is sufficient if the person serving them states the name of the
41 process and offers to deliver them. Personal service must be made as follows:

42 (A) Upon any individual other than one covered by paragraphs (d)(1)(B),
43 (d)(1)(C) or (d)(1)(D), by delivering a copy of the summons and complaint
44 to the individual personally, or by leaving them at the individual's dwelling
45 house or usual place of abode with a person of suitable age and discretion
46 who resides there, or by delivering them to an agent authorized by
47 appointment or by law to receive process;

48 (B) Upon a minor under 14 years old by delivering a copy of the summons
49 and complaint to a parent or guardian of the minor or, if none can be found
50 within the state, then to any person having the care and control of the
51 minor, or with whom the minor resides, or by whom the minor is
52 employed;

53 (C) Upon an individual judicially declared to be incapacitated, of unsound
54 mind, or incapable of conducting the individual's own affairs, by delivering
55 a copy of the summons and complaint to the individual and to the guardian
56 or conservator of the individual if one has been appointed; the individual's
57 legal representative if one has been appointed, and, in the absence of a
58 guardian, conservator, or legal representative, to the person, if any, who
59 has care, custody, or control of the individual;

60 (D) Upon an individual incarcerated or committed at a facility operated by
61 the state or any of its political subdivisions, by delivering a copy of the
62 summons and complaint to the person who has the care, custody, or control
63 of the individual, or to that person's designee or to the guardian or
64 conservator of the individual if one has been appointed. The person to
65 whom the summons and complaint are delivered must promptly deliver
66 them to the individual;

67 (E) Upon a corporation not otherwise provided for in this rule, a limited
68 liability company, a partnership, or an unincorporated association subject
69 to suit under a common name, by delivering a copy of the summons and
70 complaint to an officer, a managing or general agent, or other agent
71 authorized by appointment or law to receive process and by also mailing a
72 copy of the summons and complaint to the defendant, if the agent is one
73 authorized by statute to receive process and the statute so requires. If no
74 officer or agent can be found within the state, and the defendant has, or
75 advertises or holds itself out as having, a place of business within the state
76 or elsewhere, or does business within this state or elsewhere, then upon the
77 person in charge of the place of business;

78 (F) Upon an incorporated city or town, by delivering a copy of the summons
79 and complaint as required by statute, or in the absence of a controlling
80 statute, to the recorder;

81 (G) Upon a county, by delivering a copy of the summons and complaint as
82 required by statute, or in the absence of a controlling statute, to the county
83 clerk;

84 (H) Upon a school district or board of education, by delivering a copy of the
85 summons and complaint as required by statute, or in the absence of a
86 controlling statute, to the superintendent or administrator of the board;

87 (I) Upon an irrigation or drainage district, by delivering a copy of the
88 summons and complaint as required by statute, or in the absence of a
89 controlling statute, to the president or secretary of its board;

90 (J) Upon the state of Utah or its department or agency by delivering a copy
91 of the summons and complaint to the attorney general and any other person
92 or agency required by statute to be served; and

93 (K) Upon a public board, commission or body by delivering a copy of the
94 summons and complaint as required by statute, or in the absence of a
95 controlling statute, to any member of its governing board, or to its executive
96 employee or secretary.

97 (2) Service by mail or commercial courier service.

98 (A) The summons and complaint may be served upon an individual other
99 than one covered by paragraphs (d)(1)(B) or (d)(1)(C) by mail or commercial
100 courier service in any state or judicial district of the United States provided
101 the defendant signs a document indicating receipt.

102 (B) The summons and complaint may be served upon an entity covered by
103 paragraphs (d)(1)(E) through (d)(1)(I) by mail or commercial courier service
104 in any state or judicial district of the United States provided defendant's
105 agent authorized by appointment or by law to receive service of process
106 signs a document indicating receipt.

107 (C) Service by mail or commercial courier service shall be complete on the
108 date the receipt is signed as provided by this rule.

109 (3) Acceptance of service.

110 (A) Duty to avoid expenses. All parties have a duty to avoid unnecessary
111 expenses of serving the summons and complaint.

112 (B) Acceptance of service by party. Unless the person to be served is a minor
113 under 14 years old or an individual judicially declared to be incapacitated,
114 of unsound mind, or incapable of conducting the individual's own affairs,
115 a party may accept service of a summons and complaint by signing a
116 document that acknowledges receipt of the summons and complaint.

117 (i) Content of proof of electronic acceptance. If acceptance is
118 obtained electronically, the proof of acceptance must demonstrate on
119 its face that the electronic signature is attributable to the party
120 accepting service and was voluntarily executed by the party. The
121 proof of acceptance must demonstrate that the party received
122 readable copies of the summons and complaint prior to signing the
123 acceptance of service.

124 (ii) Duty to avoid deception. A request to accept service must not be
125 deceptive, including stating or implying that the request to accept
126 service originates with a public servant, peace officer, court, or
127 official government agency. A violation of this paragraph may
128 nullify the acceptance of service and could subject the person to
129 criminal penalties under applicable Utah law.

130 (C) Acceptance of service by attorney for party. An attorney may accept
131 service of a summons and complaint on behalf of the attorney's client by
132 signing a document that acknowledges receipt of the summons and
133 complaint.

134 (D) Effect of acceptance, proof of acceptance. A person who accepts service
135 of the summons and complaint retains all defenses and objections, except
136 for adequacy of service. Service is effective on the date of the acceptance.
137 Filing the acceptance of service with the court constitutes proof of service
138 under Rule 4(e).

139 (4) Service in a foreign country. Service in a foreign country must be made as
140 follows:

141 (A) by any internationally agreed means reasonably calculated to give
142 notice, such as those means authorized by the Hague Convention on the
143 Service Abroad of Judicial and Extrajudicial Documents;

144 (B) if there is no internationally agreed means of service or the applicable
145 international agreement allows other means of service, provided that
146 service is reasonably calculated to give notice:

147 (i) in the manner prescribed by the law of the foreign country for
148 service in that country in an action in any of its courts of general
149 jurisdiction;

150 (ii) as directed by the foreign authority in response to a letter of
151 request issued by the court; or

152 (iii) unless prohibited by the law of the foreign country, by
153 delivering a copy of the summons and complaint to the individual
154 personally or by any form of mail requiring a signed receipt,
155 addressed and dispatched by the clerk of the court to the party to be
156 served; or

157 (C) by other means not prohibited by international agreement as may be
158 directed by the court.

159 (5) Other service.

160 (A) If the identity or whereabouts of the person to be served are unknown
161 and cannot be ascertained through reasonable diligence, if service upon all
162 of the individual parties is impracticable under the circumstances, or if
163 there is good cause to believe that the person to be served is avoiding
164 service, the party seeking service may file a motion to allow service by some
165 other means. An affidavit or declaration supporting the motion must set
166 forth the efforts made to identify, locate, and serve the party, or the
167 circumstances that make it impracticable to serve all of the individual
168 parties.

169 (B) If the motion is granted, the court will order service of the complaint
170 and summons by means reasonably calculated, under all the circumstances,
171 to apprise the named parties of the action. The court's order must specify
172 the content of the process to be served and the event upon which service is
173 complete. Unless service is by publication, a copy of the court's order must
174 be served with the process specified by the court.

175 (C) If the summons is required to be published, the court, upon the request
176 of the party applying for service by other means, must designate a
177 newspaper of general circulation in the county in which publication is
178 required.

179 (e) Proof of service.

180 (1) The person effecting service must file proof of service stating the date, place,
181 and manner of service, including a copy of the summons. If service is made by a
182 person other than by an attorney, sheriff, constable, United States Marshal, or by
183 the sheriff's, constable's or marshal's deputy, the proof of service must be by
184 affidavit or unsworn declaration as described in Title 78B, Chapter 18a, Uniform
185 Unsworn Declarations Act.

186 (2) Proof of service in a foreign country must be made as prescribed in these rules
187 for service within this state, or by the law of the foreign country, or by order of the
188 court.

189 (3) When service is made pursuant to paragraph(d)(4)(C), proof of service must
190 include a receipt signed by the addressee or other evidence of delivery to the
191 addressee satisfactory to the court.

192 (4) Failure to file proof of service does not affect the validity of the service. The
193 court may allow proof of service to be amended.

194

1 **Rule 18. Summons; service of process; notice.**

2 (a) **Summons.** Upon the filing of a petition, the clerk, unless otherwise directed by the
3 court, shall schedule an initial hearing in the case.

4 (1) Summons may be issued by the petitioning attorney. If the petitioning attorney
5 does not issue a summons, summons shall be issued by the clerk in accordance
6 with Utah Code section 78A-6-351. The summons shall conform to the format
7 prescribed by these rules.

8 (2) Content of the summons.

9 (A) Abuse, neglect, and dependency cases. The summons shall contain the
10 name and address of the court, the title of the proceeding, the type of
11 hearing scheduled, and the date, place and time of the hearing. It shall state
12 the time within which the respondent is required to answer the petition,
13 and shall notify the respondent that in the case of the failure to do so,
14 judgment by default may be rendered against the respondent. It shall also
15 contain an abbreviated reference to the substance of the petition.

16 (B) Other cases. The summons shall contain the name and address of the
17 court, the title of the proceeding, the type of hearing scheduled, and the
18 date, place and time of the hearing. It shall also contain an abbreviated
19 reference to the substance of the petition. In proceedings against an adult
20 pursuant to Utah Code section 78A-6-450, the summons shall conform to
21 the Utah Rules of Criminal Procedure and be issued by the prosecuting
22 attorney.

23 (3) The summons shall be directed to the person or persons who have physical
24 care, control or custody of the minor and require them to appear and bring the
25 minor before the court. If the person so summoned is not the parent, guardian, or
26 custodian of the minor, a summons shall also be issued to the parent, guardian, or
27 custodian. If the minor or person who is the subject of the petition has been

28 emancipated by marriage or is 18 years of age or older at the time the petition is
29 filed, the summons may require the appearance of the minor only, unless
30 otherwise ordered by the court. In neglect, abuse and dependency cases, unless
31 otherwise directed by the court, the summons shall not require the appearance of
32 the subject minor.

33 (4) No summons shall be necessary as to any party who appears voluntarily or
34 who files a written waiver of service with the clerk prior to or upon appearance at
35 the hearing.

36 **(b) Service.**

37 (1) Except as otherwise provided by these rules or by statute, service of process
38 and proof of service shall be made by the methods provided in Rule 4 of Utah
39 Rules of Civil Procedure. Service of process shall be made by the sheriff of the
40 county where the service is to be made, by a deputy, by a process server, or by any
41 other suitable person appointed by the court. However, when the court so directs,
42 an agent of the Department of Human Services may serve process in a case in
43 which the Department is a party. A party or party's attorney may serve another
44 party at a court hearing. The record of the proceeding shall reflect the service of
45 the document and shall constitute the proof of service.

46 (2) Personal service may be made upon a parent, guardian, or custodian and upon
47 a minor in that person's legal custody by delivering to a parent, guardian, or
48 custodian a copy of the summons with a copy of the petition attached. If a minor
49 is in the legal custody or guardianship of an agency or person other than a parent,
50 service shall also be made by delivering to the legal custodian a copy of the
51 summons with a copy of the petition attached and notice shall be given to the
52 parent as provided in paragraph (d). Service upon a minor who has attained
53 majority by marriage as provided in Utah Code Section 15-2-1 or upon court order
54 shall be made in the manner provided in the Utah Rules of Civil Procedure.

55 (3) Service may be made by any form of mail requiring a signed receipt by the
56 addressee. Service is complete upon return to court of the signed receipt. Service of
57 process may be made by depositing a copy thereof in the United States mail
58 addressed to the last known address of the person to be served. Any person who
59 appears in court in response to mailed service shall be considered to have been
60 legally served.

61 (4) In any proceeding wherein the parent, guardian, or custodian cannot after the
62 exercise of reasonable diligence be located for personal service, the court may
63 proceed to adjudicate the matter subject to the right of the parent, guardian or
64 custodian to a rehearing, except that in certification proceedings brought pursuant
65 to Title 80, Chapter 6, Part 5, Transfer to District Court and in proceedings seeking
66 permanent termination of parental rights, the court shall order service upon the
67 parent, guardian, or custodian by publication. Any rehearing shall be requested by
68 written motion.

69 (5) Service shall be completed at least 48 hours prior to the adjudicatory hearing. If
70 the summons is for the permanent termination of parental rights, service shall be
71 completed at least ten days before the adjudicatory hearing. If the summons is for
72 a substantiation proceeding, service shall be completed at least forty-five days
73 before the adjudicatory hearing.

74 (c) **Service by publication.** Service by publication shall be authorized by the procedure
75 and in the form provided by the Utah Juvenile Code and Rule 4 of Utah Rules of Civil
76 Procedure except that within the caption and the body of any published document,
77 children shall be identified by their initials and respective birth dates, and not by their
78 names. The parent, guardian, or custodian of each child shall be identified as such using
79 their full names within the caption of any published document.

80 (d) **Notice.**

81 (1) Notice of the time, date and place of any further proceedings, after an initial
82 appearance or service of summons, may be given in open court or by mail to any
83 party. Notice shall be sufficient if the clerk deposits the notice in the United States
84 mail, postage pre-paid, to the address provided by the party in court or the address
85 at which the party was initially served, or, if the party has agreed to accept service
86 by email, sends notice to the email address provided by the party.

87 (2) Notice for any party represented by counsel shall be given to counsel for the
88 party through either mail, notice given in open court, or by email to the email
89 address on file with the Utah State Bar.

90 (e) **Additional parties.** Whenever it appears to the court that a person who is not the
91 parent, guardian or custodian should be made subject to the jurisdiction and authority of
92 the court in a minor's case, upon the motion of any party or the court's own motion, the
93 court may issue a summons ordering such person to appear. Upon the appearance of
94 such person, the court may enter an order making such person a party to the proceeding
95 and may order such person to comply with reasonable conditions as a part of the
96 disposition in the minor's case. Upon the request of such person, the court shall conduct
97 a hearing upon the issue of whether such person should be made a party.

98 (f) **Service of pleadings and other papers.** Except as otherwise provided by these rules
99 or by statute, service of pleadings and other papers not requiring a summons shall be
100 made by the methods provided in Rule 5 of Utah Rules of Civil Procedure, except that
101 service to the email address on file with the Utah State Bar is sufficient service to an
102 attorney under this rule, whether or not an attorney agrees to accept service by email.

103 (g) Access to the Juvenile Court's Court and Agency Records Exchange (C.A.R.E.) for
104 eFiling documents does not constitute an electronic filing account as referenced in the
105 Rules of Civil Procedure. eFiling in C.A.R.E. does not constitute service upon a party.

106 *Effective September 1, 2021.*

A lawsuit has been filed against you. You must respond in writing by the deadline for the court to consider your side. The written response is called an Answer.

Deadline!

Your Answer must be filed with the court and served on the other party **within 21 days** of the date you were served with this Summons.

If you do not file and serve your Answer by the deadline, the other party can ask the court for a default judgment. A default judgment means the other party can get what they asked for, and you do not get the chance to tell your side of the story.

Read the complaint/petition

The Complaint or Petition has been filed with the court and explains what the other party is asking for in their lawsuit. Read it carefully.

Answer the complaint/petition

You must file your Answer in writing with the court **within 21 days** of the date you were served with this Summons. You can find an Answer form on the court's website: utcourts.gov/ans



Scan QR code to visit page

Se ha presentado una demanda en su contra. Si desea que el juez considere su lado, deberá presentar una respuesta por escrito dentro del periodo de tiempo establecido. La respuesta por escrito es conocida como la Respuesta.

¡Fecha límite para contestar!

Su Respuesta debe ser presentada en el tribunal y también con la debida entrega formal a la otra parte **dentro de 21 días** a partir de la fecha en que usted recibió la entrega formal del Citorio.

Si usted no presenta una respuesta ni hace la entrega formal dentro del plazo establecido, la otra parte podrá pedirle al juez que asiente un fallo por incumplimiento. Un fallo por incumplimiento significa que la otra parte recibe lo que pidió, y usted no tendrá la oportunidad de decir su versión de los hechos.

Lea la demanda o petición

La demanda o petición fue presentada en el tribunal y ésta explica lo que la otra parte pide. Léala cuidadosamente.

Cómo responder a la demanda o petición

Usted debe presentar su Respuesta por escrito en el tribunal **dentro de 21 días** a partir de la fecha en que usted recibió la entrega formal del Citorio. Puede encontrar el formulario para la presentación de la Respuesta en la página del tribunal: utcourts.gov/ans-span



Para acceder esta página escanee el código QR

Serve the Answer on the other party

You must email, mail or hand deliver a copy of your Answer to the other party (or their attorney or licensed paralegal practitioner, if they have one) at the address shown at the top left corner of the first page of this Summons.

Finding help

The court's Finding Legal Help web page (utcourts.gov/help) provides information about the ways you can get legal help, including the Self-Help Center, reduced-fee attorneys, limited legal help and free legal clinics.



Scan QR code to visit page

Entrega formal de la respuesta a la otra parte

Usted deberá enviar por correo electrónico, correo o entregar personalmente una copia de su Respuesta a la otra parte (o a su abogado o asistente legal, si tiene) a la dirección localizada en la esquina izquierda superior de la primera hoja del citatorio.

Cómo encontrar ayuda legal

Para información sobre maneras de obtener ayuda legal, vea nuestra página de Internet Cómo Encontrar Ayuda Legal. (utcourts.gov/help-span) Algunas maneras de obtener ayuda legal son por medio de una visita a un taller jurídico gratuito, o mediante el Centro de Ayuda. También hay ayuda legal a precios de descuento y consejo legal breve.



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قم بالمسح الضوئي للرمز لزيارة الصفحة

An Arabic version of this document is available on the court's website:

نسخة عربية من هذه الوثيقة على موقع المحكمة على الإنترنت: توجد

utcourts.gov/arabic

A Simplified Chinese version of this document is available on the court's website:

本文件的简体中文版可在法院网站上找到：

utcourts.gov/chinese



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A Vietnamese version of this document is available on the court's website:

Một bản tiếng Việt của tài liệu này có sẵn trên trang web của tòa:

utcourts.gov/viet



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